

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No. MD-13-1026A

3 **GERALD L. SCHNEIDER, M.D.**

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION AND CONSENT TO
THE SAME**

4 Holder of License No. 14974
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

7 Gerald L. Schneider, M.D. ("Respondent") elects to permanently waive any right to
8 a hearing and appeal with respect to this Order for Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 14974 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-13-1026A after receiving a Disciplinary
17 Alert Report indicating that Respondent was disciplined by the California Medical Board
18 ("CMB").

19 4. The CMB investigated Respondent's care and treatment of a patient ("LB").
20 In January, 2002, Respondent met LB for a consultation regarding cosmetic surgery. The
21 CMB found that LB and Respondent began a physically intimate relationship in August,
22 2010. At that time, Respondent did not attempt to transfer LB's care to another physician.
23 As a result of the investigation, the CMB found that Respondent engaged in
24 unprofessional conduct by failing to maintain adequate medical records and by failing to
25 maintain appropriate professional boundaries with a female patient. Specifically, the CMB

1 found that Dr. Schneider entered into a romantic relationship with a patient
2 peri/postoperatively.

3 5. Based on the aforementioned conduct, on September 26, 2013, Respondent
4 was issued a Probationary Order ("Order") by the CMB. (A true and correct copy of the
5 Order is attached as Exhibit 1.) Pursuant to the Order, Respondent's license was placed
6 on probation for seven years and, among other things, requires Respondent to have a
7 chaperone present for all female patient examinations; prohibits Respondent from
8 supervising physician assistants; and requires Respondent to obtain Continuing Medical
9 Education in medical recordkeeping, ethics and boundaries. In addition, Respondent's
10 California medical license was suspended for a period of ninety days, effective October 12,
11 2013.
12

13 CONCLUSIONS OF LAW

14 1. The Board possesses jurisdiction over the subject matter hereof and over
15 Respondent.

16 2. The conduct and circumstances described above constitute unprofessional
17 conduct pursuant to A.R.S. § 32-1401(27)(o) ("[a]ction that is taken against a doctor of
18 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or
19 physical inability to engage safely in the practice of medicine, the doctor's medical
20 incompetence or for unprofessional conduct as defined by that jurisdiction and that
21 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this
22 paragraph. The action taken may include refusing, denying, revoking or suspending a
23 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise
24 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on
25 probation by that jurisdiction.").

1 **ORDER**

2 IT IS HEREBY ORDERED THAT

3 1. Respondent is issued a Letter of Reprimand.

4 2. Respondent is placed on Probation that shall run concurrently with the CMB
5 Order¹ with the following terms and conditions:

6 a. **CMB Order/Quarterly Updates**

7 Respondent shall remain compliant with the CMB Order. Those terms and
8 conditions are set forth in Exhibit 1 and incorporated herein by this reference. In order to
9 ensure that Respondent is compliant with the CMB Order, Respondent shall submit
10 quarterly updates to the Board. The quarterly updates must, at a minimum, include the
11 following information: 1) the location of his current medical practice; 2) his intentions to
12 practice medicine in Arizona; and 3) his compliance efforts and status under the CMB
13 Order.

14 b. **Practicing Medicine in Arizona**

15 At least 30 days before Respondent plans to practice medicine in Arizona, he
16 shall notify the Board of his intention to do so. Prior to commencing practice in Arizona,
17 Respondent, or the setting in which he is providing services, shall employ a female
18 chaperone. The female chaperone must be present at all times and in all settings where
19 Respondent examines or treats female patients. The settings include, but are not limited
20 to, office, hospital, and clinic. The female chaperone's view must be unencumbered and
21 she must be an Arizona licensed healthcare provider (i.e. registered nurse, licensed
22 practical nurse or physician assistant). The female chaperone may not be a
23 representative or relative who accompanied the patient. Respondent shall instruct the
24

25

¹ Respondent is not eligible to be released from probation in Arizona until September 26, 2020.

1 female chaperone to document her presence by signing, dating, and legibly printing her
2 name on each patient's chart at the time of the examination. Respondent shall instruct the
3 female chaperone to immediately report any inappropriate behavior to Respondent and the
4 Board.

5 c. Chart Reviews

6 Commencing 90 days after Respondent resumes practicing medicine in
7 Arizona, the Board shall conduct quarterly chart reviews. The purpose of the chart reviews
8 is to determine if Respondent is compliant with the practice restriction requirements of
9 probation. Based upon the chart reviews, the Board retains jurisdiction to take additional
10 disciplinary or remedial action.

11 d. Obey All Laws

12 Respondent shall obey all state, federal and local laws, all rules governing
13 the performance of health care tasks in Arizona, and remain in full compliance with any
14 court order criminal probation, payments and other orders.

15 e. Tolling

16 In the event Respondent should leave Arizona to reside or perform health
17 care tasks outside the State or for any reason should Respondent stop performing health
18 care tasks in Arizona, Respondent shall notify the Executive Director in writing within ten
19 days of departure and return or the dates of non-performance within Arizona. Non-
20 performance is defined as any period of time exceeding thirty days during which
21 Respondent is not engaging in the performance of health care tasks. Periods of temporary
22 or permanent residence or performance of health care tasks outside Arizona or of non-
23 performance of health care tasks within Arizona, will not apply to the reduction of the
24 probationary period.
25

1 f. Termination of Probation

2 Prior to the termination of probation, Respondent must submit a written
3 request to the Board for release from the terms of this Consent Agreement. Respondent's
4 request must be in writing and submitted at least 30 days prior to the date he would like
5 the matter to appear before the Board. In doing so, Respondent must provide the Board
6 with evidence establishing that he has successfully satisfied all of the terms and
7 conditions of this Consent Agreement. Such evidence shall include successfully
8 compliance and termination of the CMB Order. The Board has the sole discretion to
9 determine whether all of the terms and conditions of this Consent Agreement have been
10 met and whether Respondent has adequately demonstrated that he has addressed all of
11 the issues identified in it. At that time, the Board shall determine whether it is appropriate
12 to release Respondent from this Consent Agreement or take any other action that is
13 consistent with its statutory and regulatory authority.

14 DATED AND EFFECTIVE this 8th day of August, 2014.

15 ARIZONA MEDICAL BOARD

16
17 By C Lloyd Vest, II
18 C. Lloyd Vest, II
19 Executive Director

20 CONSENT TO ENTRY OF ORDER

21 1. Respondent has read and understands this Consent Agreement and the
22 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
23 acknowledges he has the right to consult with legal counsel regarding this matter.

24 2. Respondent acknowledges and agrees that this Order is entered into freely
25 and voluntarily and that no promise was made or coercion used to induce such entry.

1 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
2 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
3 this Order in its entirety as issued by the Board, and waives any other cause of action
4 related thereto or arising from said Order.

5 4. The Order is not effective until approved by the Board and signed by its
6 Executive Director.

7 5. All admissions made by Respondent are solely for final disposition of this
8 matter and any subsequent related administrative proceedings or civil litigation involving
9 the Board and Respondent. Therefore, said admissions by Respondent are not intended
10 or made for any other use, such as in the context of another state or federal government
11 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
12 any other state or federal court.


13 6. Upon signing this agreement, and returning this document (or a copy thereof)
14 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
15 the Order. Respondent may not make any modifications to the document. Any
16 modifications to this original document are ineffective and void unless mutually approved
17 by the parties.

18 7. This Order is a public record that will be publicly disseminated as a formal
19 disciplinary action of the Board and will be reported to the National Practitioner's Data
20 Bank and on the Board's web site as a disciplinary action.

21 8. If any part of the Order is later declared void or otherwise unenforceable, the
22 remainder of the Order in its entirety shall remain in force and effect.

23 9. If the Board does not adopt this Order, Respondent will not assert as a
24 defense that the Board's consideration of the Order constitutes bias, prejudice,
25 prejudgment or other similar defense.

1 10. Any violation of this Order constitutes unprofessional conduct and may result
2 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation,
3 consent agreement or stipulation issued or entered into by the board or its executive
4 director under this chapter") and 32-1451.

5  DATED: 9 July 14
6 GERALD L. SCHNEIDER, M.D.
7

8 EXECUTED COPY of the foregoing mailed
9 this 8th day of August, 2014 to:

10 Gerald L. Schneider, M.D.
11 Address of Record

12 ORIGINAL of the foregoing filed
13 this 8th day of August, 2014 with:

14 Arizona Medical Board
15 9545 E. Doubletree Ranch Road
16 Scottsdale, AZ 85258

17 Mary Babes
18 Arizona Medical Board Staff
19
20
21
22
23
24
25

Exhibit 1

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	
)	
)	
GERALD LANE SCHNEIDER, M.D.)	Case No. 10-2011-218024
)	
Physician's and Surgeon's)	
Certificate No. G 33567)	
)	
Respondent.)	
_____)	


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 26, 2013.

IT IS SO ORDERED August 27, 2013.

MEDICAL BOARD OF CALIFORNIA

By:  M/D

Dev Gnanadev, M.D., Vice Chairman
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 10-2011-218024

14 **GERALD LANE SCHNEIDER, M.D.**
15 **4642 Blackfoot Ave.**
San Diego, CA 92117

OAH No. 2013010166

16 **Physician's and Surgeon's Certificate**
17 **No. G 33567**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Director of the Medical
24 Board of California and is represented in this matter by Kamala D. Harris, Attorney General of
25 the State of California, by Tessa L. Heunis, Deputy Attorney General.

26 2. Respondent Gerald Lane Schneider, M.D. (Respondent), is represented in this
27 proceeding by attorneys Michael L. Lipman, Esq., and Robert A. Cosgrove, Esq., whose
28 respective addresses are: Michael L. Lipman, Esq., Duane Morris LLP, 750 B Street, Suite 2900,

1 San Diego, CA 92101, and Robert A. Cosgrove, Esq., Cosgrove and Birmingham, 621 2nd Street,
2 Encinitas, CA 92024.

3 3. On or about January 31, 1977, the Medical Board of California issued Physician's
4 and Surgeon's Certificate No. G 33567 to Gerald Lane Schneider, M.D. (Respondent). The
5 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
6 charges brought in Accusation No. 10-2011-218024 and will expire on October 31, 2013, unless
7 renewed.

8 JURISDICTION

9 4. On August 21, 2012, Accusation No. 10-2011-218024 was filed by Linda K.
10 Whitney, in her then official capacity as Executive Director of the Medical Board of California,
11 Department of Consumer Affairs (Board), and is currently pending against Respondent. A true
12 and correct copy of the Accusation and all other statutorily required documents were properly
13 served on Respondent on August 21, 2012. Respondent timely filed his Notice of Defense
14 contesting the Accusation. A true and correct copy of Accusation No. 10-2011-218024 is
15 attached hereto as Exhibit A and incorporated herein by reference.

16 ADVISEMENT AND WAIVERS

17 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
18 charges and allegations in Accusation No. 10-2011-218024. Respondent has also carefully read,
19 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
20 Disciplinary Order.

21 6. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in Accusation No. 10-2011-218024; the right to confront
23 and cross-examine the witnesses against him; the right to present evidence and to testify on his
24 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
25 production of documents; the right to reconsideration and court review of an adverse decision;
26 and all other rights accorded by the California Administrative Procedure Act and other applicable
27 laws.

28 ////

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 10-2011-218024 and that his Physician's and Surgeon's Certificate No. G 33567 is therefore subject to discipline. Respondent further agrees that if he ever petitions for early termination or modification of probation, or if an Accusation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 10-2011-218024 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. G 33567 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify

1 the Board, any member thereof, and/or any other person from future participation in this or any
2 other matter affecting or involving Respondent. In the event that the Board does not, in its
3 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
4 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
5 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
6 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
7 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
8 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
9 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

11 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
12 be an integrated writing representing the complete, final and exclusive embodiment of the
13 agreements of the parties in the above-entitled matter.

14 13. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
15 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
16 signatures and, further, that facsimile copies shall have the same force and effect as originals.

17 14. In consideration of the foregoing admissions and stipulations, the parties agree the
18 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
19 the following Disciplinary Order:

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 33567 issued
22 to Respondent Gerald Lane Schneider, M.D. (Respondent) is revoked. However, the revocation
23 is stayed and Respondent is placed on probation for seven (7) years from the effective date of this
24 Decision on the following terms and conditions:

25 1. **ACTUAL SUSPENSION.** As part of probation, Respondent is suspended from the
26 practice of medicine for 90 days beginning the sixteenth (16th) day after the effective date of this
27 decision.

28 ////

1 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
3 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
4 Program, University of California, San Diego School of Medicine (Program), approved in
5 advance by the Board or its designee. Respondent shall provide the program with any
6 information and documents that the Program may deem pertinent. Respondent shall participate in
7 and successfully complete the classroom component of the course not later than six (6) months
8 after Respondent's initial enrollment. Respondent shall successfully complete any other
9 component of the course within one (1) year of enrollment. The medical record keeping course
10 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education
11 (CME) requirements for renewal of licensure.

12 A medical record keeping course taken after the acts that gave rise to the charges in the
13 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
14 or its designee, be accepted towards the fulfillment of this condition if the course would have
15 been approved by the Board or its designee had the course been taken after the effective date of
16 this Decision.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

20 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
21 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
22 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
23 Respondent shall participate in and successfully complete that program. Respondent shall
24 provide any information and documents that the program may deem pertinent. Respondent shall
25 successfully complete the classroom component of the program not later than six (6) months after
26 Respondent's initial enrollment, and the longitudinal component of the program not later than the
27 time specified by the program, but no later than one (1) year after attending the classroom
28 component. The professionalism program shall be at Respondent's expense and shall be in

1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

2 A professionalism program taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the program would have
5 been approved by the Board or its designee had the program been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the program or not later
9 than 15 calendar days after the effective date of the Decision, whichever is later.

10 4. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
11 effective date of this Decision, Respondent shall enroll in a professional boundaries program
12 equivalent to the Professional Boundaries Program offered by the Physician Assessment and
13 Clinical Education Program at the University of California, San Diego School of Medicine
14 ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's
15 assessment of Respondent's competency, mental health and/or neuropsychological performance,
16 and at minimum, a 24 hour program of interactive education and training in the area of
17 boundaries, which takes into account data obtained from the assessment and from the Decision,
18 Accusation and any other information that the Board or its designee deems relevant. The
19 Program shall evaluate Respondent at the end of the training and the Program shall provide any
20 data from the assessment and training as well as the results of the evaluation to the Board or its
21 designee.

22 Failure to complete the entire Program not later than six (6) months after Respondent's
23 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
24 in writing to a later time for completion. Based on Respondent's performance in and evaluations
25 from the assessment, education, and training, the Program shall advise the Board or its designee
26 of its recommendation(s) for additional education, training, psychotherapy and other measures
27 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
28 Program recommendations. At the completion of the Program, Respondent shall submit to a final

1 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.
2 The professional boundaries program shall be at Respondent's expense and shall be in addition to
3 the Continuing Medical Education (CME) requirements for renewal of licensure.

4 The Program has the authority to determine whether or not Respondent successfully
5 completed the Program.

6 A professional boundaries course taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the course would have
9 been approved by the Board or its designee had the course been taken after the effective date of
10 this Decision.

11 If Respondent fails to complete the Program within the designated time period, Respondent
12 shall cease the practice of medicine within three (3) calendar days after being notified by the
13 Board or its designee that Respondent failed to complete the Program.

14 5. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
15 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
16 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
17 testing, if deemed necessary) by a Board-appointed board certified psychiatrist ("the evaluating
18 psychiatrist"), who shall consider any information provided by the Board or designee and any
19 other information the evaluating psychiatrist deems relevant, and shall furnish a written
20 evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the
21 effective date of the Decision shall not be accepted towards the fulfillment of this requirement.
22 Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

23 Respondent shall comply with all restrictions or conditions recommended by the evaluating
24 psychiatrist within 15 calendar days after being notified by the Board or its designee.

25 Respondent shall not engage in the practice of medicine until notified by the Board or its
26 designee that Respondent is mentally fit to practice medicine safely. The period of time that
27 Respondent is not practicing medicine shall not be counted toward completion of the term of
28 probation.

1 6. PSYCHOTHERAPY. If ongoing psychotherapy is recommended by the evaluating
2 psychiatrist, Respondent shall, within 15 calendar days after being notified by the Board or its
3 designee, submit to the Board or its designee for prior approval the name and qualifications of a
4 California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral
5 degree in psychology and at least five years of postgraduate experience in the diagnosis and
6 treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
7 continue psychotherapy treatment, including any modifications to the frequency of
8 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

9 The psychotherapist shall consider any information provided by the Board or its designee
10 and any other information the psychotherapist deems relevant and shall furnish a written
11 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
12 psychotherapist any information and documents that the psychotherapist may deem pertinent.

13 Respondent shall have the treating psychotherapist submit quarterly status reports to the
14 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
15 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
16 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
17 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
18 period of probation shall be extended until the Board determines that Respondent is mentally fit
19 to resume the practice of medicine without restrictions.

20 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

21 7. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third
22 party chaperone present while consulting, examining or treating female patients. Respondent
23 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its
24 designee for prior approval name(s) of persons who will act as the third party chaperone.

25 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of
26 the effective date of this Decision, Respondent shall receive a notification from the Board or its
27 designee to cease the practice of medicine within three (3) calendar days after being so notified.
28 Respondent shall cease the practice of medicine until a chaperone is approved to provide

1 monitoring responsibility.

2 Each third party chaperone shall sign (in ink or electronically) and date each patient
3 medical record at the time the chaperone's services are provided. Each third party chaperone
4 shall read the Decision and the Accusation, and fully understand the role of the third party
5 chaperone.

6 Respondent shall maintain a log of all patients seen for whom a third party chaperone is
7 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical
8 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
9 in chronological order, shall make the log available for immediate inspection and copying on the
10 premises at all times during business hours by the Board or its designee, and shall retain the log
11 for the entire term of probation.

12 Respondent is prohibited from terminating employment of a Board-approved third party
13 chaperone solely because that person provided information as required to the Board or its
14 designee.

15 If the third party chaperone resigns or is no longer available, Respondent shall, within 5
16 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
17 approval, the name of the person(s) who will act as the third party chaperone. If Respondent fails
18 to obtain approval of a replacement chaperone within 60 calendar days of the resignation or
19 unavailability of the chaperone, Respondent shall receive a notification from the Board or its
20 designee to cease the practice of medicine within three (3) calendar days after being so notified.
21 Respondent shall cease the practice of medicine until a replacement chaperone is approved and
22 assumes monitoring responsibility.

23 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
24 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
25 Chief Executive Officer at every hospital where privileges or membership are extended to
26 Respondent, at any other facility where Respondent engages in the practice of medicine,
27 including all physician and locum tenens registries or other similar agencies, and to the Chief
28 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
2 calendar days.

3 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

4 9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
5 prohibited from supervising physician assistants.

6 10. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
7 governing the practice of medicine in California and remain in full compliance with any court
8 ordered criminal probation, payments, and other orders.

9 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
10 under penalty of perjury on forms provided by the Board, stating whether there has been
11 compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
13 of the preceding quarter.

14 12. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit and all terms and conditions of
17 this Decision.

18 Address Changes

19 Respondent shall, at all times, keep the Board informed of Respondent's business and
20 residence addresses, email address (if available), and telephone number. Changes of such
21 addresses shall be immediately communicated in writing to the Board or its designee. Under no
22 circumstances shall a post office box serve as an address of record, except as allowed by Business
23 and Professions Code section 2021(b).

24 Place of Practice

25 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
26 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
27 facility.

28 ////

1 License Renewal

2 Respondent shall maintain a current and renewed California physician's and surgeon's
3 license.

4 Travel or Residence Outside California

5 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
6 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
7 (30) calendar days.

8 In the event Respondent should leave the State of California to reside or to practice
9 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
10 departure and return.

11 13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
12 available in person upon request for interviews either at Respondent's place of business or at the
13 probation unit office, with or without prior notice throughout the term of probation.

14 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
17 defined as any period of time Respondent is not practicing medicine in California as defined in
18 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
19 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
20 time spent in an intensive training program which has been approved by the Board or its designee
21 shall not be considered non-practice. Practicing medicine in another state of the United States or
22 Federal jurisdiction while on probation with the medical licensing authority of that state or
23 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
24 not be considered as a period of non-practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete a clinical training program that meets the criteria
27 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
28 Disciplinary Guidelines" prior to resuming the practice of medicine.

1 Respondent's period of non-practice while on probation shall not exceed two (2) years.

2 Periods of non-practice will not apply to the reduction of the probationary term.

3 Periods of non-practice will relieve Respondent of the responsibility to comply with the
4 probationary terms and conditions with the exception of this condition and the following terms
5 and conditions of probation: Obey All Laws; and General Probation Requirements.

6 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
7 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
8 completion of probation. Upon successful completion of probation, Respondent's certificate shall
9 be fully restored.

10 16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
11 of probation is a violation of probation. If Respondent violates probation in any respect, the
12 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
13 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
14 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
15 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
16 be extended until the matter is final.

17 17. LICENSE SURRENDER. Following the effective date of this Decision, if
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
19 the terms and conditions of probation, Respondent may request to surrender his or her license.
20 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
21 determining whether or not to grant the request, or to take any other action deemed appropriate
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
26 application shall be treated as a petition for reinstatement of a revoked certificate.

27 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorneys, Michael Lipman, Esq., and Robert A. Cosgrove, Esq. I fully
7 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate
8 No. G 33567. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
9 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical
10 Board of California.

11 DATED: 22 June 2013

Gerald Lane Schneider
GERALD LANE SCHNEIDER, M.D.
Respondent

14 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
15 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
16 Order. I approve its form and content.

17 DATED: _____

ROBERT A. COSGROVE, ESQ.
Attorney for Respondent

20 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
21 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
22 Order. I approve its form and content.

23 DATED: _____

MICHAEL LIPMAN, ESQ.
Attorney for Respondent

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
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8 No. G 33567. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
9 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical
10 Board of California.

11 DATED: _____

12 GERALD LANE SCHNEIDER, M.D.
13 Respondent

14 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
15 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
16 Order. I approve its form and content.

17 DATED: 6/24/13

18 Robert A. Cosgrove
19 ROBERT A. COSGROVE, ESQ.
20 Attorney for Respondent

21 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
22 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
23 Order. I approve its form and content.

24 DATED: _____

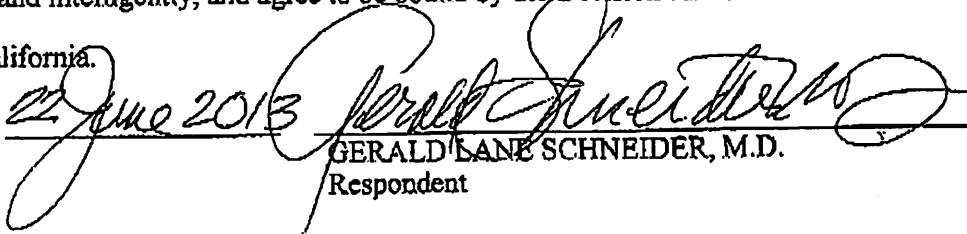
25 MICHAEL LIPMAN, ESQ.
26 Attorney for Respondent
27
28

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorneys, Michael Lipman, Esq., and Robert A. Cosgrove, Esq. I fully
7 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate
8 No. G 33567. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
9 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical
10 Board of California.

11 DATED: 22 June 2013


12 GERALD LANE SCHNEIDER, M.D.
13 Respondent

14 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
15 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
16 Order. I approve its form and content.

17 DATED: _____

18 ROBERT A. COSGROVE, ESQ.
19 Attorney for Respondent

20 I have read and fully discussed with Respondent Gerald Lane Schneider, M.D., the terms
21 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
22 Order. I approve its form and content.

23 DATED: 6/23/13


24 MICHAEL LIPMAN, ESQ.
25 Attorney for Respondent
26
27
28

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Medical Board of California of the Department of Consumer
4 Affairs.

5 Dated: June 26, 2013

Respectfully submitted,

6 KAMALA D. HARRIS
7 Attorney General of California
8 THOMAS S. LAZAR
9 Supervising Deputy Attorney General

10 

11 TESSA L. HEUNIS
12 Deputy Attorney General
13 *Attorneys for Complainant*
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Exhibit A

Accusation No. 10-2011-218024

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 26, 2012
BY: J. Melchior ANALYST

10 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 10-2011-218024

14 **GERALD LANE SCHNEIDER, M.D.**
4642 Blackfoot Avenue
15 San Diego, CA 92117

ACCUSATION

16 Physician's and Surgeon's Certificate
No. G 33567

17 Respondent.
18

19 Complainant alleges:

20 PARTIES

21 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about January 31, 1977, the Board issued Physician's and Surgeon's Certificate
25 Number G 33567 to Gerald Lane Schneider, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on October 31, 2013, unless renewed.

28 ////

1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

6 “(a) A licensee whose matter has been heard by an administrative law judge of the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 whose default has been entered, and who is found guilty, or who has entered into a
9 stipulation for disciplinary action with the division, may, in accordance with the provisions
10 of this chapter:

11 “(1) Have his or her license revoked upon order of the division.

12 “(2) Have his or her right to practice suspended for a period not to exceed one
13 year upon order of the division.

14 “(3) Be placed on probation and be required to pay the costs of probation
15 monitoring upon order of the division.

16 “(4) Be publicly reprimanded by the division.

17 “(5) Have any other action taken in relation to discipline as part of an order of
18 probation, as the division or an administrative law judge may deem proper.

19 “...”

20 5. Section 2234 of the Code states:

21 “The Division of Medical Quality¹ shall take action against any licensee who is
22 charged with unprofessional conduct. In addition to other provisions of this article,
23 unprofessional conduct includes, but is not limited to, the following:

24 ////

25 _____
26 ¹ California Business and Professions Code section 2002, as amended and effective
27 January 1, 2008, provides that, unless expressly provided, the term “board” as used in the State
28 Medical Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*) means the “Medical Board of
California,” and references to the “Division of Medical Quality” and “Division of Licensing” in
the Act or any other provision of law shall be deemed to refer to the Board.

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
2 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the
3 Medical Practice Act].

4 “(b) Gross negligence.

5 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
6 acts or omissions. An initial negligent act or omission followed by a separate and distinct
7 departure from the applicable standard of care shall constitute repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically
9 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

10 “(2) When the standard of care requires a change in the diagnosis, act, or omission
11 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
12 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs
13 from the applicable standard of care, each departure constitutes a separate and distinct
14 breach of the standard of care.

15 “...”

16 “(f) Any action or conduct which would have warranted the denial of a certificate.

17 “...”

18 6. Section 726 of the Code states:

19 “The commission of any act of sexual abuse, misconduct, or relations with a patient,
20 client, or customer constitutes unprofessional conduct and grounds for disciplinary action
21 for any person licensed under this division, under any initiative act referred to in this
22 division and under Chapter 17 (commencing with Section 9000) of Division 3.

23 “This section shall not apply to sexual contact between a physician and surgeon and
24 his or her spouse or person in an equivalent domestic relationship when that physician and
25 surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her
26 spouse or person in an equivalent domestic relationship.”

27 ////

28 ////

1 7. Section 2266 of the Code states:

2 "The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional conduct."

4 8. Unprofessional conduct under Business and Professions Code section 2234 is conduct
5 which breaches the rules or ethical code of the medical profession, or conduct which is
6 unbecoming to a member in good standing of the medical profession, and which demonstrates an
7 unfitness to practice medicine.²

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Sexual Abuse, Misconduct or Relations with a Patient)**

10 9. Respondent is subject to disciplinary action under section 726 of the Code in that he
11 committed an act or acts of sexual abuse, misconduct or relations with a patient. The
12 circumstances are as follows:

13 10. On or about January 3, 2002, patient L.B. consulted respondent in connection with
14 cosmetic surgery, which was subsequently performed by respondent on or about January 9, 2002.

15 11. Between January 2002 and August 2010, patient L.B. consulted respondent several
16 times in connection with cosmetic procedures and/or revision surgeries and/or follow-up office
17 visits.

18 12. During August 2010, patient L.B. again consulted respondent in connection with a
19 further cosmetic procedure (the August 2010 consultation), which was to be performed on or
20 about September 3, 2010. At this visit, respondent and patient L.B. started discussing their
21 personal lives, and respondent expressed an interest in patient L.B.'s sexual activities.
22 Respondent gave patient L.B. his personal email address and cellular telephone number to
23 facilitate communication between them.

24 13. Shortly after the August 2010 consultation, and before September 3, 2010, respondent
25 and patient L.B. started an intimate physical relationship.

26 ////

27

28 ² *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 14. On or about September 3, 2010, respondent performed cosmetic surgery on patient
2 L.B. (the September 2010 surgery), after which he managed her post-operative care.

3 15. The intimate physical relationship between respondent and patient L.B. continued
4 until approximately January 2011.

5 16. Between August 2010 and January 2011, respondent and patient L.B. exchanged
6 sexually explicit and/or enticing emails.

7 17. At no time between August 2010 and January 2011 did respondent take steps to have
8 the care and treatment of patient L.B. transferred to a different physician.

9 18. While patient L.B. was under respondent's care and treatment as her physician,
10 respondent engaged in an act or acts of sexual abuse, misconduct or relations with patient L.B.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Gross Negligence)**

13 19. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
14 defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in
15 his care and treatment of patient L.B., as more particularly alleged hereinafter.

16 20. Paragraphs 10 through 18, above, are hereby incorporated by reference as though
17 fully set forth herein.

18 21. Respondent committed gross negligence in his care and treatment of patient L.B.,
19 which included, but was not limited to, the following:

20 (a) Respondent exchanged sexually explicit and/or enticing emails with patient L.B.
21 while she was in the preoperative phase of her September 2010 surgery with respondent; and

22 (b) Respondent engaged in sexual intercourse with patient L.B. during the peri-operative
23 period.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Repeated negligent acts)**

26 22. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
27 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent

28 **////**

1 acts in his care and treatment of patient L.B. and/or other patients, as more particularly alleged
2 hereinafter. The circumstances are as follows:

3 23. Paragraphs 10 through 18, above, are hereby incorporated by reference as if fully set
4 forth herein.

5 24. During the period of August 2010 to January 2011, respondent administered Botox
6 injections to patient L.B. and/or other patients without maintaining any records of said injections.

7 25. Respondent committed repeated negligent acts in his care and treatment of patients
8 L.B. and/or other patients which included, but were not limited to, the following:

9 (a) Respondent exchanged sexually explicit and/or enticing emails with patient L.B.
10 while she was in the preoperative phase of her September 2010 surgery with respondent;

11 (b) Respondent engaged in sexual intercourse with patient L.B. during the peri-operative
12 period; and

13 (c) Respondent administered Botox injections to patient L.B. and/or other patients
14 without maintaining any records of said injections.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to maintain accurate and adequate records)**

17 26. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
18 defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records
19 regarding his care and treatment of patient L.B. and/or other patients, as more particularly alleged
20 in paragraph 24, above, which is hereby incorporated by reference as if fully set forth herein.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(General unprofessional conduct)**

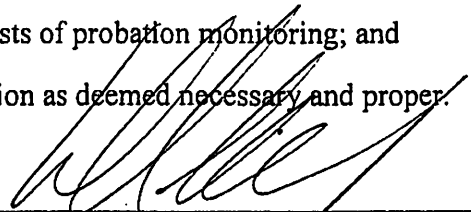
23 27. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
24 defined by section 2234, in that he has engaged in conduct which breaches the rules or ethical
25 code of the medical profession, or conduct which is unbecoming of a member in good standing of
26 the medical profession, and which demonstrate an unfitness to practice medicine, as more
27 particularly alleged in paragraphs 10 through 18, and 24, above, which are hereby incorporated by
28 reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 33567, issued to respondent GERALD LANE SCHNEIDER, M.D.;
2. Revoking, suspending or denying approval of respondent GERALD LANE SCHNEIDER, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. Ordering respondent GERALD LANE SCHNEIDER, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: August 21, 2012


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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